IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.50 OF 2016

Samindrabai D/o Dadarao Kanade ..PETITIONER

VERSUS

Hanumant s/o Prabhakar Kanade & ors. ..RESPONDENTS

Mr Prashant Deshmukh, Advocate for petitioner;
Mr S.J. Salunke, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 29th March, 2016

ORAL ORDER :

The petitioner - complainant in Regular Criminal Case No.203 of 2014, moved alleging offences punishable under sections 420, 465, 468, 109 and 120-B of the Indian Penal Code against the respondents, has questioned the order dated 21st November, 2015, passed by Judicial Magistrate First Class, Kallam, rejecting the application Exh.58, whereby the petitioner had sought production of the register containing thumb impressions, in relation to the property in question, which are claimed to be not that of the petitioner.

2. Mr Deshmukh, learned Counsel appearing on behalf of the petitioner would urge that for deciding the controversy raise in the complaint, production of the aforesaid register is necessary, particularly in

the background of the fact that the application Exh.66 moved by the petitioner seeking production of original sale deed by the police authorities was already rejected. According to him, it is claimed that the property as mentioned in the complaint was transferred by impersonation or misrepresentation.

3. Learned Counsel would then submit that the order impugned is not sustainable, as in the interest of justice, production of the document for verification of the thumb impressions was very much necessary.

4. Mr Salunke, learned Counsel appearing on behalf of the respondents would submit that the learned Magistrate has passed a reasoned order, citing the reasons for rejecting the application, which are germane to the cause as is claimed in the application for production of register. He would then submit that the petition lacks merit and be dismissed.

5. Having bestowed my thoughts to the submissions made, it is required to be noted that Exh.66 is an application moved by the petitioner seeking production of the original sale deed, which is claimed to be in possession of the police authorities. The said prayer for production of original sale deed, moved vide Exh.66 came to be rejected by order dated 10th April, 2015, against which there is no challenge raised by the petitioner. The petitioner has rather invited attention of this Court to a document on record, which is dated 3rd January, 2010, executed by the

Investigating Officer acknowledging recovery of the sale deed in question.

6. Apart from above, the learned Magistrate, while dealing with the claim, particularly in the background of section 463 of the Indian Penal Code (forgery), has observed that what is formed to be the basis for alleging the offence is the sale deed executed by impersonation and not the thumb impressions in the register maintained by the Sub Registrar. Unless the sale deed as is claimed to be executed by playing fraud or impersonation is demonstrated to be under influence of some crime, in my opinion, it will be difficult to grant relief to the petitioner of getting the document produced from the office of Sub-Registrar so as to verify and send thumb impressions for opinion of the Expert.

7. On perusal of the order impugned, in my opinion, no illegality could be noticed warranting interference under extraordinary jurisdiction of this Court. In view thereof, the petition fails and stands rejected.

(N.W. SAMBRE, J.)

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